

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

SANQUIRNETTA MCCRAY-MARTIN, *

Plaintiff, *

v. *

ELI LILLY & COMPANY, et al. *

Defendants. *

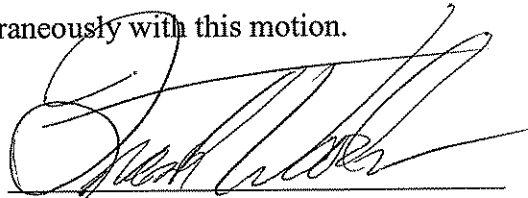
* CASE NO.: 2:05-cv-01048-CSC

MOTION TO REMAND

COMES NOW, Plaintiff Sanquirnetta McCray-Martin, and files this motion to remand this action to the Circuit Court of Bullock County, Alabama, pursuant to 28 U.S.C. § 1447(c). In support, thereof, Plaintiff shows the following:

1. The Defendants have the burden of establishing federal jurisdiction and have failed to meet this burden.
2. There is no diversity of citizenship present under 28 U.S.C. § 1332.
3. Plaintiff has asserted a viable claim against the Resident Defendant Yolanda Brown, therefore complete diversity of citizenship is absent here; accordingly Defendant has not shown and cannot show that any in-state Defendant was fraudulently joined.

These grounds are discussed in more detail in Plaintiffs' Brief in Support of Motion to Remand, which is filed contemporaneously with this motion.



Jere L. Beasley (BEA020)

Andy D. Birchfield, Jr. (BIR006)

E. Frank Woodson (WOO034)

Attorneys for Plaintiff

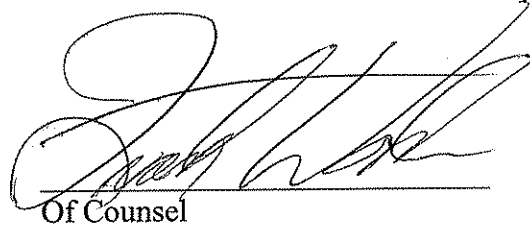
OF COUNSEL:

BEASLEY, ALLEN, CROW,
METHVIN, PORTIS & MILES, P.C.
P. O. Box 4160
Montgomery, AL 36103-4160
(334) 269-2343
(334) 954-7555 Facsimile

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon all counsel of record as listed below by placing a copy of same in the United States Mail, first class, postage prepaid on this the 2 day of November, 2005.

James C. Barton
Alan D. Mathis
JOHNSTON, BARTON, PROCTOR,
& POWELL, L.L.P.
2900 AmSouth/Harbert Plaza
1901 Sixth Avenue North
Birmingham, Alabama 35203



Of Counsel